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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,
11 Plaintiff,
12 vs.
13 Isaias Delgado,
14 Defendant.

CR 19-1094-TUC-JGZ (JR)

GOVERNMENT'S RESPONSE TO
DEFENDANT'S MOTION IN LIMINE

15 The United States of America, by and through its undersigned attorneys, hereby
16 responds to the Motion in Limine filed in this case by the defendant, Isaias Delgado. (Doc.
17 110.) As further discussed herein, the government does not object to the defendant's
18 request but wishes to clarify its position in the interest of avoiding issues at trial.
19 Additionally, the Court may choose to strike the defendant's Motion in Limine for failure
20 to comply with the Court's Pretrial Scheduling Order. (Doc. 105.)

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. Response to Motion in Limine**

23 The defendant requests that this Court preclude any reference or inference to
24 weapons being transported and/or sold in Mexico. (Doc. 110, p. 1.) As this case does not
25 involve a charge of smuggling goods from the United States, the government does not
26 intend to introduce evidence of firearms being trafficked to Mexico in its case-in-chief.

27 The government does intend to introduce references to Mexico, however, because
28 evidence relevant to the charges against the defendant of False Statements in the Records

1 of Federal Firearms Licensees (Counts Two, Three, and Four of the Indictment) include
2 evidence that the defendant was residing in Mexico when he stated in Federal Firearms
3 Licensee records that he residence in Tucson, Arizona. Such relevant evidence is also
4 expected to include testimony that the defendant did not keep belongings at the Tucson
5 address he listed in the records.

6 The government also will introduce evidence relevant to the charge against the
7 defendant of Engaging in the Business of Dealing Firearms Without a License (Count One
8 of the Indictment) that while the defendant purchased many firearms over a brief period of
9 time, he was not in possession of any of these firearms shortly after the purchases. Such
10 relevant evidence will also include evidence that the defendant sold these firearms to other
11 individuals shortly after he purchased them.

12 Therefore, it is possible that the evidence relevant to the charges against the
13 defendant may lead to an inference that the defendant took the firearms he purchased to his
14 residence in Mexico. However, the government will not seek to introduce any evidence to
15 suggest that the defendant was trafficking firearms to Mexico on behalf of a criminal
16 organization, or sold the firearms to individuals in Mexico.

17 Additionally, on July 9, 2021, counsel for the defendant provided counsel for the
18 government his list of anticipated witnesses along with brief synopses of the general topics
19 about which they may testify. As the exact nature of such testimony is not entirely clear
20 from this list, it is possible that defense witness testimony may cause additional evidence
21 regarding Mexico to become relevant. For instance, two of the witnesses are expected to
22 testify about “the defendant going to Mexico,” and other witnesses are expected to testify
23 about the defendant’s residence, business, commerce in guns, and physical location. The
24 defendant is also expected to testify. To the extent that the testimony of the defendant or
25 any of his witnesses causes additional matters regarding Mexico to become relevant, the
26 government may introduce such evidence through cross-examination and/or rebuttal
27 evidence.

1 It appears that the parties may be in agreement with regard to the limitations at trial
2 to evidence of or testimony referencing Mexico. However, as discussed below,
3 government counsel has been unable to confirm this agreement prior to the defendant filing
4 his Motion in Limine.

5 II. Pretrial Scheduling Order

6 This Court issued its Pretrial Scheduling Order on June 10, 2021, and specifically
7 stated the following with regard to motions in limine in this matter:

8 Motions in limine are discouraged if the parties can informally resolve the issues
9 without Court intervention. Therefore, **the parties must confer prior to the filing**
10 **of a motion in limine to determine whether it can be avoided.** Motions in limine
11 must be accompanied by a notice of certification of conferral indicating that the
12 parties have conferred to determine whether a motion in limine can be resolved
13 through agreement, and have been unable to agree on a resolution of the motion.
14 Motions in limine that do not contain the required certification may be stricken by
15 the Court.

16 (Doc. 105, p. 2.) Beginning on June 5, 2021, counsel for the government began a series of
17 email correspondence with counsel for the defendant, requesting a meeting to discuss the
18 potential resolution of any trial issues that may be capable of resolution in the interest of
19 expediting the trial. On June 22, 2021, counsel met telephonically and discussed several
20 pretrial matters, including the requirements of the Court's Pretrial Scheduling Order.
21 During this meeting, government counsel inquired whether the defendant would be
22 objecting to any references to Mexico. Defense counsel responded that he may, and on
23 July 9, 2021 (in response to a follow-up email sent by government counsel on June 22,
24 2021), confirmed that he would file a motion in limine regarding testimony about gun
25 trafficking to Mexico. That same day, government counsel indicated via email that the
26 parties may be in agreement about the preclusion of such testimony, and requested to
27 discuss the matter with defense counsel so as to avoid the filing of a motion in limine, in
28 accordance with the Court's Pretrial Scheduling Order. Defense counsel did not respond
and filed the Motion in Limine on July 12, 2021.

While the Court may choose to strike the defendant's Motion in Limine for failure
to comply with its Pretrial Scheduling Order, the government nonetheless will adhere at

1 trial to its position set out above with regard to references to gun trafficking to Mexico, in
2 the interest of expediting trial and avoiding any unnecessary issues during trial.

3 **III. Conclusion**

4 Should the Court consider the defendant's Motion in Limine, the government
5 respectfully requests that it be granted subject to the clarifications set forth herein.

6 Respectfully submitted this 19th day of July, 2021.

7 GLENN B. McCORMICK
8 Acting United States Attorney
9 District of Arizona

10 *s/Angela W. Woolridge*

11 ANGELA W. WOOLRIDGE
12 Assistant U.S. Attorney

13 Copy of the foregoing served electronically or by
14 other means this 19th day of July, 2021, to:

15 Bradley K. Roach, Esq.
16 Attorney for the defendant
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